

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MARSHAGAY RODRIQUES,

Plaintiff,

-against-

MEMORIAL SLOAN KETTERING CANCER  
CENTER,

Defendant.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 4/21/2020

1:20-CV-2355-GHW

ORDER OF SERVICE

GREGORY H. WOODS, United States District Judge:

Plaintiff Marshagay Rodriques, who appears *pro se*, asserts claims under Title VII of the Civil Rights Act of 1964 and the New York State and City Human Rights Laws. She sues her former employer, the Memorial Sloan Kettering Cancer Center (“MSK”), and asserts that it discriminated against her because of her national origin. The Court can construe the complaint as also asserting claims under 42 U.S.C. § 1981. Plaintiff seeks damages and reinstatement. By order dated April 15, 2020, the Court granted Plaintiff’s request to proceed without prepayment of fees, that is, *in forma pauperis* (“IFP”). The Court directs service on MSK.

Because Plaintiff has been granted permission to proceed IFP, she is entitled to rely on the Court and the U.S. Marshals Service to effect service. *See Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the Court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP). Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons and the complaint be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served a summons and the complaint on MSK until the Court reviewed the complaint and ordered that a summons be issued for MSK. The Court therefore extends the time to serve MSK until 90 days

after the date that a summons is issued for MSK. If the complaint is not served on MSK within that time, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service); *see also Murray v. Pataki*, 378 F. App'x 50, 52 (2d Cir. 2010) (summary order) ("As long as the [plaintiff proceeding IFP] provides the information necessary to identify the defendant, the Marshals' failure to effect service automatically constitutes 'good cause' for an extension of time within the meaning of Rule 4(m).").

To allow Plaintiff to effect service on MSK through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for MSK. The Clerk of Court is further instructed to issue a summons for MSK, and deliver to the Marshals Service all of the paperwork necessary for the Marshals Service to effect service on MSK.

### CONCLUSION

In light of the current global health crisis, parties proceeding *pro se* are encouraged to submit all filings by email to [Temporary\\_Pro\\_Se\\_Filing@nysd.uscourts.gov](mailto:Temporary_Pro_Se_Filing@nysd.uscourts.gov). *Pro se* parties also are encouraged to consent to receive all Court documents electronically. A [consent to electronic service form](#) is attached to this order and is available on the Court's website. *Pro se* parties who are unable to use email may submit documents by regular mail or in person at the drop box located at the U.S. Courthouses in Manhattan ([500 Pearl Street](#)) and White Plains ([300 Quarropas Street](#)). For more information, including instructions about this new email service for *pro se* parties, please visit the Court's website at [nysd.uscourts.gov](http://nysd.uscourts.gov).

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf.*

*Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).


The Court directs the Clerk of Court to mail a copy of this order to Plaintiff, together with an information package.

The Court also directs the Clerk of Court to issue a summons for MSK, complete a USM-285 form with the service address for MSK, and deliver all documents necessary to effect service on MSK to the U.S. Marshals Service.

SO ORDERED.

Dated: April 20, 2020

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GREGORY H. WOODS  
United States District Judge

**DEFENDANT AND SERVICE ADDRESS**

Memorial Sloan Kettering Cancer Center  
HR Legal & Regulatory Affairs  
633 Third Avenue, 5th Floor  
New York, New York 10017



**United States District Court  
Southern District of New York  
*Pro Se Office***

## **Pro Se (Nonprisoner) Consent & Registration Form to Receive Documents Electronically**

Parties who are not represented by an attorney and are not currently incarcerated may choose to receive documents in their cases electronically (by e-mail) instead of by regular mail. Receiving documents by regular mail is still an option, but if you would rather receive them only electronically, you must do the following:

1. Sign up for a PACER login and password by contacting PACER<sup>1</sup> at [www.pacer.uscourts.gov](http://www.pacer.uscourts.gov) or 1-800-676-6856;
2. Complete and sign this form.

If you consent to receive documents electronically, you will receive a Notice of Electronic Filing by e-mail each time a document is filed in your case. After receiving the notice, you are permitted one “free look” at the document by clicking on the hyperlinked document number in the e-mail. Once you click the hyperlink and access the document, you may not be able to access the document for free again. After 15 days, the hyperlink will no longer provide free access. Any time that the hyperlink is accessed after the first “free look” or the 15 days, you will be asked for a PACER login and may be charged to view the document. For this reason, *you should print or save the document during the “free look” to avoid future charges.*

### **IMPORTANT NOTICE**

Under Rule 5 of the Federal Rules of Civil Procedure, Local Civil Rule 5.2, and the Court’s Electronic Case Filing Rules & Instructions, documents may be served by electronic means. If you register for electronic service:

1. You will no longer receive documents in the mail;
2. If you do not view and download your documents during your “free look” and within 15 days of when the court sends the e-mail notice, you will be charged for looking at the documents;
3. This service does *not* allow you to electronically file your documents;
4. It will be your duty to regularly review the docket sheet of the case.<sup>2</sup>

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<sup>1</sup> Public Access to Court Electronic Records (PACER) ([www.pacer.uscourts.gov](http://www.pacer.uscourts.gov)) is an electronic public access service that allows users to obtain case and docket information from federal appellate, district, and bankruptcy courts, and the PACER Case Locator over the internet.

<sup>2</sup> The docket sheet is the official record of all filings in a case. You can view the docket sheet, including images of electronically filed documents, using PACER or you can use one of the public access computers available in the Clerk’s Office at the Court.



**United States District Court  
Southern District of New York**  
*Pro Se Office*

**CONSENT TO ELECTRONIC SERVICE**

I hereby consent to receive electronic service of notices and documents in my case(s) listed below. I affirm that:

1. I have regular access to my e-mail account and to the internet and will check regularly for Notices of Electronic Filing;
2. I have established a PACER account;
3. I understand that electronic service is service under Rule 5 of the Federal Rules of Civil Procedure and Rule 5.2 of the Local Civil Rules, and that I will no longer receive paper copies of case filings, including motions, decisions, orders, and other documents;
4. I will promptly notify the Court if there is any change in my personal data, such as name, address, or e-mail address, or if I wish to cancel this consent to electronic service;
5. I understand that I must regularly review the docket sheet of my case so that I do not miss a filing; and
6. I understand that this consent applies only to the cases listed below and that if I file additional cases in which I would like to receive electronic service of notices of documents, I must file consent forms for those cases.

**Civil case(s) filed in the Southern District of New York:**

**Note:** This consent will apply to all cases that you have filed in this court, so please list all of your pending and terminated cases. For each case, include the case name and docket number (for example, John Doe v. New City, 10-CV-01234).

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Name (Last, First, MI)

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| Telephone Number | E-mail Address |
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| Date | Signature |
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**Return completed form to:**

Pro Se Office (Room 200)  
500 Pearl Street  
New York, NY 10007